



తెలంగాణ రాజ పత్రము
THE TELANGANA GAZETTE
PART - I EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 264]

HYDERABAD, FRIDAY, OCTOBER 9, 2015.

NOTIFICATIONS BY HEADS OF DEPARTMENTS Etc.

—X—

COMMISSIONER OF COMMERCIAL TAXES

PROPOSED SHOW CAUSE NOTICE CALLING FOR THE OBJECTIONS FROM THE AFFECTED PERSONS
— OBJECTIONS RECEIVED – EXAMINED - ORDERS - PASSED.

Ref:

1. A.P. Extra-ordinary Gazette (Part-II) No. 66, dt. 08.05.2012.
2. CCT's Ref.No.DX2/395/2012, dt. 27-09-2012.
3. CCT's Ref.No.DZ(3)/466/2012-VI, dt. 24-01-2014.
4. CCT's Ref.No.DZ/1017/2015 dt. 27-08-2015.
5. T.S. Extra-ordinary Gazette No.
6. Objections received from the following individuals:
 - a. Smt.G.K.Lalitha, DCTO, dt.18.8.2015.
 - b. Sri Syed Basha Hussain, DCTO, dt. 01-09-2015.
 - c. Sri N.Gangadhar, DCTO, dt. 01-09-2015.
 - d. Smt.Y.Anjali Kumari, DCTO, dt. 03-09-2015.
 - e. Sri K.Srinivas, DCTO, dt. 07-09-2015.
 - f. Sri G.Gopi Krishna Chaitanya, DCTO Dt. 09-09-2015.
 - g. Sri G.Narender Reddy, DCTO, dt. 11-09-2015.
 - h. Sri K.Vijay Sreenu, DCTO, dt. 11-09-2015.
 - i. Sri M.Sreenivasa Rao, DCTO, dt. 11-09-2015.

CCT's Ref.No.TS/DZ/1017/2015.— In the reference 3rd cited, the seniority list of D.C.T.Os of Zone-VI was finalized for the panel years 1997-98 to 2004-05 duly publishing in the A.P.Extra ordinary Gazettee.

In continuation to the above, seniority list of DCTOs of Zone-VI, the seniority of DCTOs of Zone-VI for the subsequent panel years 2005-06 and 2006-07 is takenup, basing on the integrated seniority list of ACTOs of Zone-VI as finalised in the references 1st and 2nd cited.

The present seniority list of DCTOs will be subject to out come of any OAs/ WPs pending with the Courts in this regard and with the following directions of Hon'ble High Court of Judicature at Hyderabad in W.P.No.24335/99.

1. Final seniority list in the cadre of DCTOs be made on the basis of final integrated seniority of ACTOs after interspersing them at Zonal level.

2. By interspersing the seniority of DCTOs at State Level, the final seniority list of CTOs has to be prepared.
3. At each stage of ACTOs and DCTOs, it is Rule 33(a) of the A.P. State and Sub-ordinate Service Rules, which will govern the aspect of seniority.
4. While considering the final seniority list of CTOs and consequential promotions, it is the seniority based on Rule 33(a) referred to above will govern and not the service rendered in officiating capacity as DCTO on adhoc basis.

FOR THE PURPOSE OF PREPARATION OF ZONAL SENIORITY LIST OF DCTOs OF ZONE-VI, THE FOLLOWING GENERAL PRINCIPALS HAVE BEEN ADOPTED.

1. The current exercise of preparation of seniority list of DCTOs from the panel year 2005-06 and 2006-07 of Zone-VI based on the final integrated seniority list of ACTOs of Zone-VI finalized vide the reference 1st and 2nd cited.
2. Panels of 2005-06 and 2006-07 of DCTOs have been prepared basing on the adhoc panels approved by the D.PCs basing on the feeder category seniority list i.e., Seniority list of ACTOs of Zone-VI finalized by the Commissioner (CT), A.P., Hyderabad.
3. So as to maintain the order of ranking within the panel, date of arising of the vacancy is taken as basis for the purpose of assigning notional date, subject to their eligibility and Rule of Reservations in Promotions to the category of SC and STs.
4. In case of the city list candidates, they have not been placed against the 15th point earmarked for them according to APCT service Rules. However the vacancies is kept as reserved.

VACANCY POSITION:

The vacancies of DCTOs of Zone-VI panel year wise have been taken based on the Retirements/Promotions/Deaths/Dismissals/Creation of new posts as follows:-

PANEL YEAR	TOTAL No. OF VACANCIES
2005-06	29
2006-07	09

In exercise of powers conferred to Commissioner of Commercial Taxes, Telangana, Hyderabad, it is proposed to finalize the seniority list of DCTOs of Zone VI from the panel year 2005-06 to 2006-07 (Appended as Annexure)

The persons who feel adversely affected by this proposed seniority, may file their written statement of objections, if any, within (15) days from the date of publication of this show cause notice, failing which, it will be construed that they have no objections to file on the proposed seniority and orders will be passed without further notice or time.

It may be noted that the placements made in the panel years of the individuals is only for the purpose of seniority and promotions and no monetary benefits, etc. whatsoever with retrospective effect can be claimed from the date of inclusion of individuals in the panels.

Accordingly, in exercise of the powers delegated by the Commissioner of Commercial Taxes, AP, Hyderabad, to Addl. Commissioner (CT), AP, Hyderabad Show Cause Notice vide reference 4th cited was issued calling for objection from the adversely affected persons.

In response to the Show Cause Notice the following individuals have filed their objections which are examined and replied as hereunder:

1. Objection filed by Sri Syed Basha Hussain, DCTO, Nalgonda Divn:

The individual submitted that he was a DR ACTO of 1994-95 batch of Secunderabad Nodal Division. His name was placed at Sl.No.97 above the name of Sri Madhusudhana Chary and below the name of Sri Dhananjay Naik, ACTO at Sl.No.96. Subsequently, the seniority list was revised and his serial No.104 between the same above individuals. He was promoted as DCTO on 18-02-2007 and placed in the panel year 2006-07. He stated that his junior DCTOs have been promoted as CTOs i.e., on 27-04-2015. Therefore, he requested that his name may be considered for inclusion in the panel year 2003-04 as the post of DCTO had arisen prior to his currency of charges i.e., 22-08-2004 and hence an appropriate place in the seniority list of DCTOs panel. As on date of arising of post of

DCTO i.e., on 22-08-2004 as there are no currency charges, he requested that he may be placed in the appropriate panel years as deemed fit.

Reply to the Objections:

The above objection of the individual is examined. The earlier seniority of Sri Syed Basha Hussain, was with reference to pre-revised seniority list of ACTOs of Zone-VI. Subsequently, the seniority lists of ACTOs of Zone-VI underwent revision in pursuant to the orders of Hon'ble Tribunal and orders of the Government i.e., to finalize the seniority lists of ACTO of all zones following Rota-Quota principle. Accordingly, the ACTO seniority lists of zone-VI was revised and in the said revised seniority list, the name of the individual found placement in the panel year 1995-96. This revised seniority list of ACTOs was not questioned by the individual and thereby allowed to become final. Basing on the revised seniority list of ACTOs this individual was appointed as DCTO on adhoc basis on 18-2-2007.

The Government vide Memo.No.10195/CT.I/2015, Revenue (CT.I) Dept., dated 14-08-2015 have rejected the representation of the individual for inclusion of his name in the panel year 2004-05 on par with his junior stating that the charges were pending against Sri Syed Basha Hussain in the cadre of ACTO during the panel year 2004-05. Subsequently, the said charges were concluded by imposing a penalty of Censure against the individual vide proceedings dated 15-11-2005 and the said penalty was under currency for a period of one year i.e.upto 14.11.2006. As such, it is clear that the individual became eligible to be considered his name for promotion to the next higher category w.e.f. 15.11.2006 i.e. from the panel year 2007-08 only, but not before that panel year as per G.O.Ms. No.342, GAD, dated04-08-1997 and rule-6 (b) of General Rules.

Accordingly, his objections are devoid of any merit and unsustainable. As such, the same are rejected.

2. Objection filed by Sri N.Gangadhar, DCTO, Nizamabd Division:

The individual submitted that he was promoted as ACTO in the year 1991-92 and subsequently promoted as DCTO in the panel year 2009-10 and his name should have been considered in the panel year 2004-05 and as he belongs to ST category. In the proposed show cause notice of Zone VI for the panel years 2005-06 and 2006-07 his name was placed at Sl.No.1 of panel year 2005-06 instead of 2004-05. He requested that his name may be considered for the panel year 2004-05 as and when the revision seniority takes place.

Reply to the Objections:

The above objection of the individual is examined. The Show Cause Notice proposing to finalise the seniority list of DCTOs of Zone-VI for the panel year 2004-05 was issued on 29-06-2013. He did not file any objections to this Show Cause Notice, and thereafter seniority list of DCTOs of Zone-VI was finalized on 24-01-2014. As a consequential action to this Zonal seniority list, the integrated seniority list of DCTOs was also proposed in Show Cause Notice dt. 24-04-2014. To this Show Cause Notice also he did not file any objections, thereby enabling the appointing authority to finalise the integrated seniority list of DCTOs on 03-06-2015 for the panel year 2004-05. Further, he did not file any statutory appeal in this regard and thus allowed the seniority of DCTOs of the panel year 2004-05 both at zonal level and at the integration level to become final. As such, the individual has no locus-standi for seeking placement in this panel year 2004-05. Hence, his objection on this count fails, and accordingly over-ruled.

3. Objections filed by Smt.K.Anjali Kumari, DCTO, Abids Division:

She submitted that she was promoted as ACTO on 05-02-2000 and she belongs to SC community. As per the show cause notice of the DCTO seniority list of Zone VI, her name was not included in the panel year list of 2005-06 and 2006-07. The candidates from the Sl.no.22 to 35 are promoted after the year 2000. In this regard, she requested to fix her seniority by including in the seniority list.

Reply to the Objections:

Her objection is examined. Her initial appointment as ACTO was on adhoc basis and the temporary service rendered as ACTO from 5-2-2000 would not count for the purpose of seniority. Her seniority in the cadre of ACTO would be reckoned only from the date she was appointed as ACTO on substantive basis as per the principle of Rota-Quota envisaged in Ten Point Cycle of Commercial Taxes Subordinate Service Rules, 1990. Her substantive appointment as ACTO in the vacancy that arose in the panle year 2005-06. All those persons finding place at Sl.Nos.22 to 35 were DR ACTOs of the year 2001, whose seniority in the cadre of ACTO would be from the date of their joining in the substantive vacancy i.e., in February/March 2001, under rule 33 (a) of APS&SS Rules. By the time these

DR ACTOs joined she was officiating as ACTOs on adhoc basis and therefore cannot get seniority. Thus, she is junior to the above DRs in the cadre of ACTOs and consequently she would become junior to them in the cadre of DCTO also. Therefore, her name is not included in the seniority list of DCTO as per law only. Hence, her objection in this regard is unsustainable and over-ruled accordingly.

4. Objection filed by Sri G.Gopi Krishna Chaitanya, DCTO, MG Road Circle:

He submitted that he was placed at Sl.No.152 in the revised integrated seniority list of ACTOs in the panel year 1996-97 above the city list candidates Smt.C.Shakunthala who is at placed at Sl.No.161 and Sri P.Sivarami Reddy at Sl.No.179 was in the panel 1997-98. In the same seniority list as per G.O.Rt.No.604, Rev (CT-I) Dt. 29-03-2005, Sri RFR Kumar, DR ACTO was placed at Sl.No.181 and was not shown in any panel year. Many junior officers to him in the cadre of ACTOs are promoted as DCTOs w.e.f 04-06-1997. Whereas, he was not promoted as DCTO even though he was working as ACTO w.e.f 01-07-1996. Therefore, he stated that he suffered monetary loss for the last many years and forcibly kept in the cadre of ACTO.

Further, he submitted that his junior most ACTOs i.e., Smt.C.Shakuntala, Sri P.Sivarami Reddy and RFR Kumar were promoted as CTOs recently. Where his name was not taken place in the list furnished before the recently convened DPC without any valid reasons which is most unconstitutional irregular and illegal.

As per the Govt instructions, the information should be furnished to the DPC is accurate and proper in all respects. Further, he stated that ministries may investigate all cases of delay and submission of incorrect particulars to the DPC and to take suitable action against the persons responsible for default. If the Officers placed junior to the Officer concerned have been promoted, he should be promoted immediately and if there is no vacancy the junior most person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed at the stage it would have reached, had he been promoted from the date, the Officer immediately below him was promoted.

Further, he submitted that he should be given seniority in accordance with the revised integrated seniority list of ACTOs of ZoneVI finalized by the then Addl CT (Legal) AP and published in the AP Extraordinary Gazette part-II Notification No.66, Dt. 08-05-2012, and place his name below the name of Sri A.Prakash and the above name of Sri M.Sadanand (SC) in the seniority list of DCTOs of Zone VI, assigning me the panel year 2004-05, since the basis for preparation of Seniority List in the cadre of D.C.T.O. is the earlier seniority list in the Feeder Categbory of A.C.T.O.

Finally, he requested that Smt. C.Shakunrthala, Sri P.Shivarama Reddy and Sri R.F.R.Kumar, who were juniors to him were already promoted on 11-8-2015 hence he may kindly be promoted immediately as C.T.O. and he should also be given seniority according to his position in the panel not on the basis of the date of promotion and also should be treated to have been notionally promoted and stepping up of his Pay in the regular time scale of pay assigned to the post of Commercial Tax Officer w.e.f. from the date of promotion of his immediate junior in the interest of principle of natural justice.

Reply to the objection:

The above objection of the individual is examined. Pursuant to the integrated seniority list of ACTOs of the year 1996-97 of Zone-VI a show cause notice was issued proposing to finalise the seniority list of DCTOs of the panel year 2004-05 of zone VI. In this show cause notice the names of Smt C.Shakuntala, Sri P.Sivarama Reddy and Mr. RFR Kumar were shown over the name of this individual. The record reveals that he did not file any objection for this placement of the three individuals over his name in the proposed seniority list of DCTOs of the panel year 2004-05 of zone VI. In the absence of any objections from the individual in this regard, further action was taken to finalise the zonal seniority list of DCTOs of the above panel year 2004-05. As a consequential action steps were initiated for finalizing integrated seniority list of DCTOs for the year 2004-05 for the entire State by issuing show cause notice on _____. To the show cause notice he did not file any objection. Therefore final orders are passed in respect of integrated seniority of DCTOs for the entire State for the panel year 04-05. The record also does not suggest that any appeal to this effect was ever filed by the individual. In view of the above latches on the part of the individual, all the above three individual became senior to this individual in the cadre of DCTO of Zone VI and on the strength of the same they were even promoted as CTOs. Thus, his objections are devoid of any merits for the reasons discussed above and accordingly the same are rejected since the present seniority is for the panel years 2005-06 and 2006-07. However, his name is included in the panel year 2005-06 of DCTOs of Zone-VI.

5. Common Objection filed by Sri K.Srinivas, DCTO, Mahankali Street Circle, G.Narender Reddy, DCTO, S.D.Road Circle and M.Srinivasa Rao, DCTO, Saroornagar Circle and K.Vijaya Sreenu, DCTO, Sultan Bazar Circle.

Sri K.Srinivas, G.Narender Reddy, and M.Srinivasa Rao, submitted that they are direct recruitee ACTOs of 2001 batch and allotted to the Unit of Appointment of DC (CT) Secunderabad Division. They joined as ACTO on 09-04-2001. They submitted that upon good service track record and passing of the Departmental tests for the posts of ACTO, his probation in the cadre of ACTO was declared and subsequently promoted as DCTO.

They submitted that while finalizing the seniority list of ACTOs for the panel year 2000-01, their seniority was fixed with reference to the Roster Point selection but not with reference to merit based on marked secured in the Group-II Competitive Examination conducted by the APPSC pursuant to Notification 10/99. In the competitive exam conducted by the APPSC, Sri K.Srinivasa Rao said that he secured 420.288 marks whereas Sri P.Krishna Rao secured 409.11 marks. However, Sri P.Krishna Rao was shown senior to him in the integrated seniority list of ACTOs finalised in CCTs Ref.DX2/395/2011/Zone-VI dt.27-9-2012 with reference to Roster Point. This seniority list was challenged before the Hon'ble Tribunal in OA.No.7985/2012. The Hon'ble Tribunal in its orders dt.23-11-2012 passed orders directing the Addl. Commissioner (CT) to prepare the fresh seniority list as per the merit ranking given by the APPSC and also as per the provisions of rule 33 (b) r/w 36(1) of the APS&SS Rules, 1996. In fact, the APPSC also addressed the Department to finalize the seniority list based on merit vis-à-vis marks secured in the competitive exam. The Hon'ble Supreme Court in judgment in C.A.No.4662/2007 dt. 28-7-2011 and C.A.No.4455/2008 dt. 16-7-2008 held that Roster Point is to be taken for selection of the candidate for the post but merit of that candidate should be with reference to marks. The above judgment is judgment in rem and therefore applicable to all persons standing on the same footing as mentioned in the above judgments.

He submitted that very recently in Warangal Nodal Division in Zone-V one DR ACTO of 2005 batch was treated as selected in 2001 batch of ACTOs pursuant to the same Notification 10/99 and given placement in the seniority list of ACTOs with reference to her merit based on marks by the learned Addl. Commissioner (CT) in Ref.No.CCT's C(DX4)/439/2013 dtd.14-8-2015.

They submitted that despite the above position and availability of marks list of the APPSC of ACTOs selected pursuant to notification 10/99 with the O/o the Commissioner (CT) no action has been taken to revise his seniority placing his name over Sri P.Krishna Rao in the panel year of ACTOs of 2000-01 of Zone-VI and thus much injustice has been done to him. However, he once again submitted the merit list with reference to notification 10/99 of the APPSC of the ACTOs selected which is obtained under RTI Act for taking necessary action.

Added to the above injustice, even in the show cause notice referred to above proposing to finalise the seniority list of DCTOs of Zone-VI for the pane years 2005-06 and 2006-07, an irregularity apparent from record is committed, which has affected in non-inclusion of name of Sri K.Srinivas in the panel year 2005-06 as against inclusion of his name in the panel year 2006-07, for the following reasons.

The rule of reservation for SC/ST candidates in promotions is 15% and 6% respectively with reference to the cadre strength of a post, in this case it is DCTO of Zone-VI. The cadre strength of DCTOs in Zone-VI is 126 posts. Out of this 15% reservation to SC candidates would come to 19. This includes SCs appointed following Rule of Reservation and based on their seniority to arrive at adequacy of 19. In support of this view the orders of the Government in G.O.Ms.No.2 SW (ROR-I) Dept., dt.9-1-2014 is being followed. As per this G.O. the computation of adequacy of representation to be followed as under:

“For the purpose of computing adequacy of representation of Schedule Castes (15%) and Scheduled Tribes (6%) in various categories the following procedure shall be followed.

- (a) (a) The persons belonging to Scheduled Castes and Scheduled Tribes who have been promoted on the basis of seniority cum merit, i.e without applying the rule of reservation should also be counted for judging the adequacy or otherwise of Scheduled Caste/Scheduled Tribe representation.
- (b) (b) The adequacy or otherwise representation should be counted in respect of each category of posts but not for the Department as a whole.
- (c) (c) If in respect of any category, if adequate representation already exists as on 14-2-2003 or is attained at a later date, the rule of reservation in promotion in favour of Scheduled Castes/ Scheduled Tribes shall not be applied further.”

Further, the Government have issued Amendment in G.O Ms No: 18 Social Welfare (SW.ROR1) Department, Dt: 17-02-2005 which are reproduced below:

Note: "Once the adequacy is achieved to the required percentage of 15% in respect of Scheduled Castes and 6% in respect of Scheduled Tribes, in a category, the applicant of the rule of reservation in promotions shall be stopped and the promotions shall be effected based on merit cum seniority. The candidates so promoted shall be fitted into the same roster, without earmarking the reserved roster points. If on 1st September of any panel year, the representation of Scheduled Castes/Scheduled Tribes is inadequate the reservation in promotions shall be resumed. The roster point shall start from next point of the candidate figuring in the previous panel prepared and given effect to. For example as on 1st September of a panel year, there are 20 posts in a particular category and there are 2 SC representation is short by one candidate. The other candidates shall have to be promoted, including the SC candidates if they are figuring in the general seniority list, based on merit cum general seniority. They shall be shown at the continuous roster points. The 7th roster point of SC shall be filled up with the candidate based on merit cum seniority. The roster points from 1 to 10 shall have to be filled up in such manner. In the next panel year, if it is found that there is adequacy of SC representation, then the promotions shall be effected based on general seniority and merit.

If there is inadequacy of representation, SC candidates shall be promoted based on roster. The roster point for that panel year shall start from 11 and the next SC roster point is available at 16 and the same shall be filled up with SC candidate."

The Government have issued certain amendments to Rule 22 of AP State and Subordinate Service Rules 1996 vide G.O Ms No: 123 GAD (Ser.D) Department, Dt: 19-04-2003 which is reproduced as under:

Rule 22 (2)(a)(i) C, D & E of AP State and Subordinate Service Rules 1996.

- C. filling up the roster points shall continue till the required percentage of Scheduled caste and Scheduled Tribe candidates is obtained. Once the required percentage is obtained by taking into account both the Scheduled Caste and Scheduled Tribes candidates Who are found in the list of candidates fit for promotion on account of their seniority in the feeder category and those who are moved up to till up the required roster point further adjustment Scheduled Caste and Scheduled Tribe employees against roster point has be stopped.
- D. Unutilised roster points after required scheduled caste and scheduled tribes percentage is met, shall lapse.
- E. if requires number of Scheduled Caste and Scheduled Tribe employees are not available in the feeder category to obtain the required representation in the promotion category. The vacancies earmarked for Scheduled Caste and Scheduled Tribe employees according to the roster points will be carried forward."

He submitted that the SC candidates adequacy is as under upto the panel year 2004-2005.

Sl No	Panel year in which vacancy arose	Name of the individual	Date of retirement/ In service
1	1997-1998	T. Yamanna	30-06-2008
2	1997-1998	A. Laxmaiah	30-11-2008
3	1997-1998	M.Vijayanand	30-11-2008
4	1998-1999	G.Krishna Rao	In service
5	1998-1999	B.S.Srihari	31-07-2008
6	1999-2000	N.Kanta Rao	31-08-2014
7	1999-2000	E.Premalatha	31-05-2010
8	2000-2001	T.Lalitha	31-07-2011
9	2000-2001	Parasu Ramulu	30-04-2010
10	2001-2002	M.V. Purushotham Rao	28-02-2007
11	2001-2002	Rajalingam	30-06-2009
12	2001-2002	T.Chandra Murthy	30-06-2009
13	2001-2002	P.Rama Chandra Kumar	30-04-2013
14	2002-2003	Neeradi Joji	30-09-2008
15	2003-2004	A.Saraswathi	30-06-2008
16	2003-2004	M.Vijay Kumar	In service
17	2004-2005	K.Venkateshwarlu	In service
18	2004-2005	K.Navanetha	In service
19	2004-2005	G.Narasimhulu	28-02-2010
20	2004-2005	S.Kishan	28-02-2008
21	2004-2005	M.Sadanand	31-03-2008
22	2004-2005	G.Srinivas	In Service
23	2004-2005	B.Augustine	31-03-2014
24	2004-2005	R.F.R.Kumar	In service
25	2004-2005	S.Prakash	31-10-2007

It is submitted that from the above details it is evident that there are no carry forwarded vacancies available to the Scheduled Caste candidates upto the panel year 2004-2005. Further, during the panel year 2005-06, 29 substantive vacancies of DCTOs in Zone-VI arose. The communal roster point for this panel should commence from 83 ST as earlier roster point ended with 82 in the panel year 2004-05. If the communal roster point started with 83 for 29 posts, it would end at roster point 11 in the second cycle. In between these roster points five vacancies for SC candidates arose at roster points 87 (W) 91, 97, 2 (SW), 7. These roster points were filled with following SC candidates:

- 87 (W) Smt Rushendramani
- 91 Sri S.Nagendra Rao
- 97 Sri M.Prabhakar
- 2 (W) Smt P.Surekha
- 7 Sri E.Naga Babu

Further, as already the SC (W) adequacy was reached upto the required percentage by Smt. P.Surekha, further reservation of roster shall be stopped in terms of amended rule 22 (2)(a)(i) C & D of AP State and Subordinate Service Rules 1996 issued in G.O Ms No: 123 GAD(Ser-D) Department dt: 19-04-2003 (Copy enclosed).

It is submitted that except the above SC candidates mentioned at item no: 9, no other SC candidates should find placement over his name. However, the name of Smt G.K.Lalitha is shown above his name in the panel year 2005-06, which is incorrect. If Smt. G.K.Lalitha name is deleted, his name will find placement in the panel year 2005-06 as against inclusion in the panel year 2006-07.

In view of the above, he requested that for placing him in the panel year 2005-2006 by deleting the name of Smt G.K.Lalitha (SC) from the panel year 2005-2006 and to revise his seniority in the DCTO Panel year for 2005-2006 and 2006-2007.

Reply to the objection:

The objections of the individuals have been examined with reference to record. At the time of preparation of seniority lists of ACTOs for the year 2000-01 both at the nodal division level and at the Integration level, the issue of fixing their seniority in the cadre of ACTO with reference to merit basing on the marks secured in the Group-II exams of APPSC for the post of ACTO was never contested by the individual concerned herein. Therefore, it is not open to them to raise the same issue now at the time of finalisation of seniority list of DCTOs with reference to the seniority list of ACTOs of Zone-VI. Further, they are seeking seniority with reference to merit, placing reliance on some other individuals orders, which is not permissible under law. It is settled proposition of law that one should fight his/her legal battle to get relief and cannot enjoy fruits of others legal battle to get the present relief in their favour. On this count their objections are not sustainable and accordingly rejected.

On the issue of placing some SC candidates in the panel year 2005-06, the same is examined with reference to record and rules 5(a) and 6 r/w rule 7 of the State and Subordinate Service Rules, 1996. All gazetted posts are selection posts and appointment to such posts, a panel of candidates shall be prepared. Panel year commences from first September of the year which shall be reckoned as the qualifying date to determine the eligibility of a candidate to such appointments and the same ceases to be in operation by 31st December of the succeeding year. The vacancies which arise between 1st September and 31st August of succeeding year would be taken into consideration for the panel year.

The panel year for the year 2005-06 commenced from 1-9-2005 and ceases to be in operation by 31-12-2006 and the number of vacancies of DCTOs in Zone-VI arose during the period 1st September 2005 and 31st August, 2006 was 29. The record reveals that the last Communal Roster Point in 100 point Communal Roster Point as envisaged in rule 22 of the State and Subordinate Service Rules ended with number 82 in the panel year 2004-05. Applying Communal Roster Point from 83 for all the 29 posts of DCTOs it would end with Roster Point 11 in the second cycle of 100 Communal Roster Points. Between these Roster Points 83 and 11, about 5 vacancies for SC candidates arose at Roster Points, 87, 91, 97, 2 and 7 in the panel year 2005-06, but however 7 SC candidates are included in this panel year, which is not correct. In fact, rule of reservation cannot be extended to this panel year in as much as 25 SC candidates had already been included in the panel year 2004-05 of DCTOs of Zone-VI and thus adequacy reached as on the date of commencement of panel year 2005-06, by 1st September 2005, as per provision of law only 19 DCTOs should be included in the panel year 2004-05 with reference to 15% of cadre strength of DCTOs numbering 126 of Zone-VI. Thus, there is an excess SC candidate by 6 numbers. As, adequacy already achieved and as such promotion/seniority to SC/ST candidates applying ROR should be stopped in the light of G.O.Ms.No.18 SW (ROR-I) Dept dt.17-2-2005. In fact, as per the recent judgment of the Hon'ble Apex Court in Civil Appeal Nos.6631-6632 of 2015 dt.27-08-2015 in the case of S.Panneer Selvam and others Vs Government of Tamil Nadu and others held there is no reservation in fixation of seniority in respect of SC/ST candidates in any cadre in Government Service on getting accelerated promotion by applying Rule of Reservation. Rule of Reservation is only for accelerated promotion but not accelerated seniority with reference to accelerated promotion applying Rule of Reservation, while interpreting Art.16(4A) of the Constitution and rule 12 of the Tamilnadu Highway Engineering Service Rules. Rule 4 of the Commercial Taxes Service Rules, 1994 as framed in G.O.Ms.No.360 Revenue (CT-I) Dept., dt.23-4-1994 as amended from time to time is identical to rule 4 of Tamilnadu Highway Engineering Service Rules. Therefore, the above Apex Court Judgment would be binding on this department also.

However, the SC candidates included in the panel year 2005-06 except Smt G.K.Lalitha is as per general seniority in the feeder category of ACTOs in the panel year 1997-98 to 1999-2000 of Zone-VI. The inclusion of Smt G.K.Lalitha in the panel year 2005-06 applying ROR is not correct and to be relegated in view of the above provision of law. Accordingly her name is relegated from the panel year 2005-06. Consequently the name of Sri K.Srinivas, DCTO the first person in the panel year 2006-07 is pushed upwards to the panel year 2005-06, placing his name below the name of Smt.Ch.Vasantha.

With the above reasoning the objections of Sri K.Srinivas and others to this extent are sustainable and accordingly sustained.

For the panel year 2006-07, 9 vacancies of DCTOs arose. Applying Communal Roster Points from 12 it would with roster point 20. In between these roster points, the roster point 16 is meant for SC candidate. Since adequacy already achieved as discussed above, this roster point is to be filled with general seniority candidate in the feeder category of ACTOs without applying Rule of Reservation. Therefore the name of Sri Kanaka Reddy, ACTO, retired on 30-6-2007 is to be placed in the panel year 2006-07 of DCTOs as he was inservice by the time the DCTO vacancy arose for him in the panel year 2006-07. Therfore, the name of Sri Kanaka Reddy, whose seniority being at S1.No.14 in the integrated seniority list of ACTOs of the panel year 2000-01 dt.27-9-2012 of Zone-VI is included in the panel year 2006-07 of DCTOs of Zone-VI.

Objections of Smt G.K.Lalitha:

Her objection is that she belong to SC community and that she should have been in the earlier panels of ACTOs but her name disappeared from the panel. According to her original seniority in the cadre of ACTO is at S.No.198 in the panel year 1999-2000. As the seniority list of ACTOs was revised on 23-4-2012, the name of Sri Nagababu SC candidate was placed at S.No.207 in the panel year 1999-2000 and her seniority in the cadre of ACTO should be after his name. Further, as per the Annexure-A to the seniority list of ACTOs of Zone-VI of the panel years 2000-01 to 2008-09 finalised on 27-9-2012, her name is placed at S.No.31. Further her name is finding placement at S.No.21 of the DCTOs panel for the year 2006-07 of Zone VI and with reference to that seniority, she is seeking promotion to the cadre of CTO.

Reply:

Her above objection is examined with reference to record and found to be hypothetical. As per the integrated seniority list of ACTOs of Zon-VI for the periods 1992-93 to 1999-2000, the name of Sri E.Nagababu ACTO, a candidate belonging to SC community found placement at S.No.207 as last candidate. However, the name of this individual Smt G.K.Lalitha found placement at S.No.30 in the integrated seniority list of ACTOs of Zone-VI in the panel year 2003-04, finalised on 27-9-2012.

However, with reference to this seniority in the cadre of ACTO her name is included in the DCTO panel of 2005-06 of Zone VI at S1.No.22, by inadvertance. She is not entitled to be included in the DCTO panel either in the year 2005-06 or 2006-07 applying ROR due to achieving of adequacy in the representation of SC candidates and for the reasons discussed above in reply to objections of Sr K.Srinivas and others. When her inclusion in the DCTO panel 2005-06 being incorrect one and relegated now from that panel year, her request for promotion as CTO with reference to that incorrect seniority is not a tenable one. Hence, her objections are devoid of any merit and accordingly overruled.

With the above findings, the seniority list of DCTOs of Zone-VI for the panel years 2005-06 and 2006-07 is hereby finalised by the undersigned.

It is also informed that the placements made in the various panel years of the employees are only for the purpose of seniority. It does not confer any right to notional promotion or monetary benefits etc with retrospective effect.

The Zonal seniority finalized now will be subject to the outcome of SLPs/WPs/OAs/ Appeals pending, if any, before the Hon'ble Supreme Court of India/Hon'ble High Court/APAT/Government.

A copy of the order is available on the portal of the C.T.Department and can be accessed at the address: www.tgct.gov.in.

**STATEMENT SHOWING THE SENIORITY OF DCTOs OF ZONE-VI FOR THE PANEL YEARS
2005-06 & 2006-07**

Sl. No.	Panel Year	Name of the Individual	Date of Birth	Date of Retirement	Date of appointment	Working/ Retired
1	2005-06	N. Gangadhar (ST)	05-03-1960	31-03-2018	04-04-2010	
2	2005-06	K. Pradeep Kumar	13-11-1956	30-11-2014	06-12-2005	Retired
3	2005-06	GGK Chaithanya	05-06-1958	30-06-2016		
4	2005-06	B. Upender Reddy	31-10-1965	31-10-2023	04-04-2010	
5	2005-06	M. Balamani (ST)	06-03-1961	31-03-2019	06-12-2005	
6	2005-06	City List				
7	2005-06	A. Nagalakshmi	19-02-1972	28-02-2030	21-02-2009	
8	2005-06	K. Gayatri (ST)	01/05-1964	30-04-2022	06-12-2005	
9	2005-06	Y. Narahari Rao (ST)	10-04-1959	30-04-2017	06-12-2005	
10	2005-06	G.P. Rushendramani (SC)		31-08-2014	25-07-2009	Retired
11	2005-06	S. Nagendra Rao (SC)	01-06-1964	31-05-2022	04-07-2009	
12	2005-06	G. Prakash (ST)	25-10-1954	31-10-2012	06-12-2005	Retired
13	2005-06	B. Kullai Naik (ST)	01-06-1951	31-05-2009	06-12-2005	Retired
14	2005-06	G. Santhosh Reddy	15-06-1953	30-06-2011	06-12-2005	Retired
15	2005-06	S. Samuel	05-12-1952	31-12-2010	14-08-2006	Retired
16	2005-06	P. Prakash Raj	10-05-1956	31-05-2014	04-07-2009	Retired
17	2005-06	V. Satyavathi	03-12-1949	31-12-2007	06-12-2005	Retired
18	2005-06	N.P. Ananthnarayanan	11-11-1950	30-11-2008	16-02-2006	Retired
19	2005-06	M. Prabhakar (SC)	14-08-1951	31-08-2009	21-05-2010	Retired
20	2005-06	P. Surekha (SC)	21-07-1962	31-07-2020	17-07-2009	
21	2005-06	City List				
22	2005-06	K. Shankar Rao	15-07-1950	31-07-2008	16-02-2006	Retired
23	2005-06	E. Naga Babu (SC)	15-03-1960	31-03-2018	14-08-2006	
24	2005-06	G. Srinivasa Rao	06-08-1948	31-08-2006	16-02-2006	Retired
25	2005-06	S. Janakiram	02-09-1950	30-09/2008	09-06-2006	Retired
26	2005-06	P. Krishna Rao	30-05-1972	31-05-2030	04-04-2010	
27	2005-06	Ch. Vasantha	21-09-1971	30-09-2029	04-04-2010	
28	2005-06	K. Srinivas	20-02-1973	28-02-2031	04-04-2010	
29	2005-06	G. Madhavi	20-08-1975	31-08-2033	04-04-2010	
30	2006-07	P. Janaiah (SC)	12-05-1967	31-12-2025	04-04-2010	
31	2006-07	M. Srinivasa Rao	01-06-1970	31-05-2028	04-04-2010	
32	2006-07	G. Narendra Reddy	20-06-1968	30-06-2026	04-04-2010	
33	2006-07	M. Satyanarayana Murthy	02-06-1950	30-06-2008	09-06-2006	Retired
34	2006-07	K. Vijay Sreenu (SC)	08-08-1967	30-08-2025	04-04-2010	
35	2006-07	K. Viswannadham (ST)	03-07-1965	31-07-2023		
36	2006-07	City List				
37	2006-07	V. Rama Murthy	25-01-1955	31-01-2013		Retired
38	2006-07	Kanaka Reddy	12-06-1949	30-06-2007		Retired

Hyderabad,
23-09-2015.

V. ANIL KUMAR,
Commissioner of Commissioner Taxes.

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